

DECISION

25060
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-211361**DATE:** May 6, 1983**MATTER OF:** Starck Van Lines of Columbus, Inc.**DIGEST:**

Protest with GAO is untimely where filed more than 10 working days after the protester received the contracting officer's denial of an initial protest filed with the contracting agency. The protester's continued pursuit of its protest with the contracting agency does not extend the time frame for filing a subsequent protest with GAO.

Starck Van Lines of Columbus, Inc. protests the Air Force's award of a contract to Lewis & Michael, Inc. for personal property shipment services in Ohio. The protest involves an invitation for bids, No. F33601-83-B-0007, that covered the Air Force's requirement for moving services in six different areas. Lewis & Michael received awards for all services for five areas of each of two schedules and one area of the third schedule.

We dismiss the protest as untimely.

Starck originally filed a protest with the Air Force that Lewis & Michael submitted a below-cost bid for one of the services. The protester also alleged that Lewis & Michael lacked the proper operating authority from the Public Utility Commission of Ohio to perform the services in one area for which it received an award. The contracting officer denied the protest by a letter dated February 18, 1983. In response, the protester wrote another letter to the contracting officer, dated February 25, requesting further review and referral to a higher authority, and also protesting that Lewis & Michael's bid was unbalanced. The contracting officer denied the protest by letter of March 9. The protester filed its protest here by letter dated April 1, which we received on April 5.

Our Bid Protest Procedures require that if a protest was filed initially with the contracting agency, any subsequent protest to the General Accounting Office must be filed (received by this Office) within 10 working days

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after the protester receives formal notification of, or has actual or constructive knowledge of, initial adverse agency action. 4 C.F.R. § 21.2(a) (1983). A contracting officer's letter denying the protest to the agency constitutes initial adverse agency action. See Stanley Furniture Company, B-206444, December 2, 1982, 82-2 CPD 498. A protester's continued pursuit of its protest with the contracting agency, despite such denial of the initial protest, does not extend the time for filing a protest with our Office. S/S&W Landscape Maintenance, B-209964, December 22, 1982, 82-2 CPD 569.

Starck clearly received the contracting officer's letter denying Starck's initial protest by February 25, the date Starck responded to the denial. We assume that Starck received the Air Force's March 9 letter within one week, that is, by March 16. See Travel Corporation of America, B-209368, November 22, 1982, 82-2 CPD 467. Since Starck's protest to this Office was not filed until April 6, we will not consider the merits of the protest.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel